

MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the CABINET held on 4 October 2022 at 10.00 am

Present

Councillors R M Deed (Leader), C J Eginton, Mrs C P Daw, D J Knowles, B A Moore, S J Penny and C R Slade, R Chesterton (virtually)

Also Present

Councillor(s) B Warren, J Buczkowski, S Clist, E Lloyd

Also Present

Officer(s): Richard Marsh (Director of Place), Maria De Leiburne (Interim Monitoring Officer), Andrew Jarrett (Deputy Chief Executive (S151)) and Stephen Walford (Chief Executive)

62. APOLOGIES

There were no apologies for absence.

63. PUBLIC QUESTION TIME

The following questions were received from members of the public:

Nick Quinn

My questions are on Agenda Item 4 (Minutes of the Previous Meeting) – specifically the non-accuracy of Resolution in Draft Minute 61. This Draft Minute does properly record that: “*The Cabinet resolved not to support the recommendation of the Scrutiny Committee*”, but what follows is NOT accurate. The Council Constitution requires that: *Minutes contain all Motions in the exact form the Chairman put them*. It is clear from the recording of the meeting, that the words about the previous view and decision, were not spoken by the Leader in the motion he put. He just read out the Resolution of Scrutiny Committee, which contained their recommendation, and asked for a vote on that. To make certain Cabinet understood what they were voting on, the Member Services Officer asked the Members to: “*raise their hands in support the recommendation from the Scrutiny Committee*”, which nobody did - so she continued: “*All those against!*” and all the hands went up. The Officer then confirmed the outcome, by saying: “*So you are against the recommendation from the Scrutiny Committee. Thank you Members*”. The words about the previous view and decision, were not put to the vote, which makes the current Draft Minutes both unconstitutional and inaccurate. For the Minutes to be agreed as a true record, these words must be removed.

Question 1 is to the Leader: Will you please confirm that, when you put your motion to the vote, you did NOT speak the words about the previous view and decision, currently shown in the Draft Minute 61 Resolution?

Question 2 is to the Cabinet: So you can, honestly, agree the Minutes as a True Record, will you please correct the Resolution in Draft Minute 61 to read - “*The Cabinet resolved not to support the recommendation of the Scrutiny Committee*” (*Proposed by the Leader*) – and nothing else? I previously informed the Monitoring Officer of this inaccuracy and she will be able to confirm what I have said.

The Leader thanked Mr Quinn for his questions and noted they would be answered later.

The Leader responded that it was up to the Committee concerned to make any adjustments to their minutes. The Leader asked the Cabinet if they wished to make any amendments to the previous minutes to which there were none.

At item 14 of the cabinet agenda the Monitoring Officer had taken the opportunity to answer the public questions and explained that reference had been made to council procedure rule 20.2, however, this rule only applied to Full Council and not to Cabinet and the minutes that were approved by Cabinet were legitimate.

64. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting were approved as a correct record and signed by the Leader.

65. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

Members were reminded of the need to make declarations of interest if and when necessary.

Councillor C Eginton declared a non-pecuniary interest for item 11, in which he ran a shop on Tiverton High street but had no intention to apply for the scheme. He remained in the meeting during this item.

66. **3 RIVERS DEVELOPMENTS LIMITED – FUNDING REQUEST**

The Leader of the Council raised that at the last Cabinet meeting (22 September 2022) Cabinet resolved not to accept the recommendation from the Scrutiny Committee in relation to the Call-In of the 6 September Cabinet decision on 'Three Rivers Developments Limited – Funding Request'.

For avoidance of doubt the Leader asked the Cabinet if they were content to confirm the decision made on the 6 September.

RESOLVED: That Cabinet confirms the decision of the 6 September “That it be agreed to increase the current loan agreements by a total of £2,280,784 to cover; the identified project overspends on 2 projects included in the previously agreed Business Plan funding envelope agreed on the 30 November 2021 and increased the working capital loan agreement. In addition, it be agreed that a transfer from a future projects budget of £0.58m in order for the business to work up new potential projects to replace the out of District projects that had to be removed from the company’s business plan after changes to the Treasury’s Public Works Loan Board loan arrangements.”

(Proposed by the Leader)
(Councillor S Penny Abstained)

Note: The Cabinet Member for Finance announced that he had become an independent councillor with immediate effect.

67. FINANCIAL MONITORING

The Deputy Chief Executive provided a verbal update on the financial monitoring which highlighted the following:

- The financial forecast for the council had worsened since quarter 1, this had largely been due to the cost of living crisis and expectations and estimates around the provisional staff pay awards. In regards to the provisional staff pay award, one had been accepted by one of the unions and the Council were waiting to hear back from two other unions.
- Recruitment remained a challenge and key positions were covered by agency workers. It was noted that there had been improved income in areas such as waste and planning.
- Fuel prices had stabilised and the government's energy price cap had applied to local authorities. In addition, Mid Devon District Council had already pre-purchased fuel at a favourable rate. In addition the planned removal of the national insurance increase would benefit the authority as long as offset payments from the Government remained. The reduction of stamp duty could help any buybacks of right to buy properties and in a rising interest rate market it would need to be assessed how our lending and borrowings within the capital programmed would be affected.
- There were outstanding items that awaited a second and final payment for the energy rebate funding programme, some provisional guidance on the increased audit fees had been received, these detailed that audit fees could be increased by 150%.
- A formal Q2 update had been planned to be presented in November 2022 as well as an initial steer on the 2023/24 budget as well on any overspends for the current financial year.

The Leader thanked the Deputy Chief Executive for his update and noted that Cabinet had started to tackle the issue, called the £1m challenge for the cost pressures for the current year. All aspects of income and looking at the cost of the provision of services. Therefore, the adjustment/level of service provision might need to be considered. Cabinet would liaise with the Policy Development Groups so that recommendations that related to the budget could be brought to Cabinet.

RESOLVED: That the update be noted.

68. DATA PROTECTION POLICY

The Cabinet were presented a report from Corporate Manager for Business Transformation and Customer Engagement which sought approval for the new Data Protection Policy. This report reviewed the existing policy to ensure compliance with the Data Protection Act (DPA) 2018 and the General Data Protection Regulations.

The Cabinet Member for the Working Environment and Support Services noted that the policy was last reviewed in 2019 and that no changes were identified.

RESOLVED: That the Data Protection Policy be approved and the next review date set for 3 years hence.

(Proposed by Cllr C Eginton and seconded by Cllr A Moore)

Reason for Decision: Not complying with the DPA 2018 and GDPR would expose MDDC to enforcement action by the Information Commissioner's Office (ICO). Approving the Data Protection Policy reduces the risk of enforcement action by the ICO. This policy supports good governance arrangements enabling confidence in delivery of the Corporate Plan.

69. FREEDOM OF INFORMATION POLICY

The Cabinet were presented a report from Corporate Manager for Business Transformation and Customer Engagement which sought approval for the new Freedom of Information Policy. This report reviewed the existing policy to ensure compliance with the Data Protection Act (DPA) 2018 and the General Data Protection Regulations.

The Cabinet Member for the Working Environment and Support Services noted that the policy was last reviewed in 2019 and that no changes were identified.

RESOLVED: That the revised Freedom of Information and Environmental Information Regulations Policy be approved and the next review date set for 3 years hence.

(Proposed by Cllr C Eginton and seconded by Cllr C Daw)

Reason for Decision: Not complying with the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) would expose MDDC to the potential for enforcement action by the Information Commissioner's Office (ICO). Approving the Freedom of Information and Environmental Information Regulations Policy reduces the risk of enforcement action by the ICO. This policy supports good governance arrangements enabling confidence in delivery of the Corporate Plan.

70. RECORDS MANAGEMENT POLICY

The Cabinet were presented a report from Corporate Manager for Business Transformation and Customer Engagement which sought approval for the revised Records Management Policy.

The Cabinet Member for the Working Environment and Support Services noted that there was a new and significant requirement at 2.1 of the report and that it was in accordance with current data protection legislation. It ensured that record handling happened as part of a managed process and would be logged. In July 2022 a new Information Management Team had been created.

RESOLVED: That the revised Records Management Policy be approved.

(Proposed by Cllr C Eginton and seconded by Cllr D Knowles)

Reason for Decision: Not complying with the DPA 2018 and GDPR would expose MDDC to enforcement action by the Information Commissioner's Office (ICO). Approving the Records Management Policy reduces the risk of enforcement action by the ICO. This policy supports good governance arrangements enabling confidence in delivery of the Corporate Plan.

71. TIVERTON A361/HIF SCHEME - UPDATE

The Cabinet were presented with a report from the Director of Place, which informed Members of the latest position regarding the Tiverton HIF/A361 junction scheme, seeking decisions regarding next steps.

The Cabinet Member for Planning and Economic Regeneration noted that Members would recall that the July Cabinet had agreed further work by officers to seek additional funding to support delivery of the project or to reduce costs and scope to facilitate delivery. The report set out that it has unfortunately not proved possible to secure further funding and that officers did not believe that the project could to be delivered within the current budget, even with a reduced scope. A recommendation was therefore set out to pause delivery and progression of the scheme.

The Cabinet Member emphasised that pausing the scheme had not meant that it would not or could not be delivered in the future and that the risks were considered as set out in the report.

The Leader thanked the Cabinet Member for their presentation and sought clarification that if the phase 2 junction was paused, would this have an impact on the number of houses developed within that area. The Director of Place explained that it would not have an impact on future housing developments.

A Cabinet Member raised their support and noted that other projects might have to be paused due to the current economic climate.

A Cabinet Member wanted to know whether there were other projects that could be funded by the Homes England HIF funding, to which the Director of Place explained that any other scheme would require potential housing developments to be unlocked, which would limit potential options,

A Cabinet Member noted that this was the right way to go.

RESOLVED: That

- Cabinet instructs officers to pause progression and delivery of the next phase (phase 2) of the A361 junction owing to cost increases which make the project unaffordable at this time.
- Cabinet instructs officers to continue to engage with Homes England with a view to identifying alternative options to utilise the HIF funding in order to support the delivery of other aspects of the Tiverton EUE scheme and, if alternative options are identified, to progress these to a stage where a viable proposition can be brought back for consideration by Cabinet.

(Proposed by Cllr C Slade and seconded by Cllr D Knowles)

Reason for Decision: Pausing delivery of the scheme at this time would delay delivery of the project, but the intention remains to deliver the project and deliver key objectives as established within the corporate plan. Borrowing to fund the 'gap' would add significant further financial pressures to the Council at a time of increasing economic and financial uncertainty and pressures and this approach is therefore not one which is considered prudent, and is not recommended.

72. SHOPFRONT ENHANCEMENT SCHEME

The Cabinet were presented with a report from the Director of Place, which informed Members about the new Tiverton Shopfront Enhancement Scheme launching in October / November 2022 and requested approval for the revised Scheme.

The Cabinet Member for Planning and Economic Regeneration noted that this was a relaunch of the shopfront enhancement scheme that was successfully delivered from 2015 until 2020, when the allocated funding was depleted. The purpose of this scheme was for shopfronts to be maintained as well as visual appearance of the shopping areas to be improved in order for footfall to be promoted. Each grant offered would provide up to 50% of the total costs for improvements up to a maximum of £2,500. The grant could be used for repairs, redecoration and signage in keeping with the conservation area.

The Leader thanked the Cabinet Member for their presentation and opened the floor to questions which were as followed:

- A Cabinet Member asked if Cullompton would have a shopfront enhancement scheme, to which the Cabinet Member for Planning and Economic Regeneration noted that there was an existing scheme within Cullompton's heritage action zone already.
- A Cabinet Member noted that this scheme was vitally important and that Tiverton's shopfronts had improved compared to a number of years ago.
- A Cabinet Member wanted to know to what extent had discussions taken place with Tiverton Town Council and to what extent was their influence on this scheme and could they take it further to enhance the scheme's benefits. The Director of Place explained that Tiverton Town Council were aware of the scheme and had been involved in the scheme's formation, with recommended improvements to the scheme been received from the Town Council. The Director of Place also confirmed that work was underway so that this scheme could be aligned with other schemes.

The Leader asked who the nominated Tiverton Ward Members might be, but it was explained by the Director of Place that recent conversations had been undertaken but not yet confirmed.

RESOLVED: That the new Tiverton Shopfront Enhancement Scheme be approved and three Tiverton Ward Members be nominated to be part of the Funding Panel for the Scheme.

(Proposed by Cllr C Slade and seconded by Cllr D Knowles)
(Cllr C Eginton abstained)

Reason for Decision: This supports the Corporate Plan priority of 'Economy', in particular: "Identify strategic and tactical interventions to create economic and community confidence and pride in the places we live. This includes a continued focus on Town Centre Regeneration"

73. CREDITON NEIGHBOURHOOD PLAN

The Cabinet were presented with a report from the Director of Place, which asked Cabinet to recommend to Council the adoption of the Crediton Neighbourhood Plan in order to meet the requirements of the relevant Acts and Regulations.

The Cabinet Member for Planning and Economic Regeneration noted the following:

- The Crediton Neighbourhood Plan was subject to a local referendum held on 22nd September 2022, within the Crediton Parish Since 88.4 % of voters were in favour of the Crediton Neighbourhood Plan the plan had become part of the statutory development plan for the area.
- Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicated otherwise. Policies of the Neighbourhood Plan would be used alongside policies in the adopted Mid Devon Local Plan, the Devon Minerals and Waste Plans, to help guide planning applications submitted to the Council for determination in the Crediton area.
- The Council must now formally adopt the Plan, however, the Council may refuse to make the Plan if it considered that making it would be a breach, or would otherwise be incompatible with, any EU obligations or any human rights obligations.
- Council officers hold the view that the making of the Plan would not breach these obligations. The Council must decide whether to make, or refuse to make, the Plan.

RESOLVED to RECOMMEND: To Council that

- The Crediton Neighbourhood Plan (Appendix 1) is 'made' (adopted) and brought into force as part of the statutory development plan for the Crediton area.
- The Crediton Neighbourhood Plan Adoption Decision Statement (Appendix 2) is published to meet the publicity requirements in the Regulations.

(Proposed by the Leader)

74. **NON STATUTORY INTERIM PLANNING POLICY STATEMENT: CLIMATE EMERGENCY**

The Cabinet were presented with a report from the Director of Place, which sought approval for the Non-Statutory Interim Planning Policy Statement to be published for public consultation.

The Cabinet Member for Planning and Economic Regeneration noted that:

- At the Cabinet meeting held on 4 February 2021 the Cabinet considered there was a need for guidance to clarify how the requirements of the Local Plan adopted in July 2020 could be met in relation to climate change as well as other planning policies, legislation and more recent technical evidence. The 'Statement' was an interim measure in advance of a new Local Plan ('Plan Mid Devon') due to be completed, and would be used to help inform the preparation of this new Local Plan.
- The 'Statement' included a Climate Emergency – Planning Applications Checklist, which had been developed by planning officers and the Council's Climate and Sustainability Specialist. The checklist was based on 6 principles and 19 objectives relevant to mitigating, and adapting to, climate change. Applicants were expected to have regard to the principles and objectives in their planning applications.
- The 'Statement' also introduces a 'Net Zero Carbon Toolkit' which had been funded through the Local Government Association Housing Advisers Programme.
- The third key part of the 'Statement' is a 'Net Zero Housing Assessment Tool'. This had been developed by officers in association with the University of Exeter. The Net Zero Housing Assessment Tool could be used alongside the Net Zero Carbon Toolkit to evaluate the costs and benefits of a range of low carbon standards for new residential developments.
- The 'Statement' would not have the status of a Supplementary Planning Document. However, it will be guidance and a resource that can help clarify how the requirements of existing development plan policies can be met in relation to climate change, which can assist the assessment of planning applications, and it underlines that tackling climate change is a material consideration.

The Leader thanked the Cabinet for their presentation and asked the Chief Executive to make a comment on the work done with the University of Exeter, to which the Chief Executive explained that work undertaken by the University of Exeter was more in relation to the Council's own emissions and that this report considered how plans would be considered within the planning process.

A Cabinet Member welcomed this report and noted that this report played an important part in Mid Devon's decarbonisation.

A Cabinet Member was positive about this report, but raised that this was not statutory and therefore there were no obligations for developers to follow this. Clarification was sought as to what the costs might be to uphold this. The Director of Place explained that the process was quite involved and expected that there might be a degree of pushback but climate change was relevant and this process would support deliberations at Planning Committee and for engagement to be promoted.

The Cabinet Member added that there was a cost to this and raised concern over public engagement and that there was a need for its use to be encouraged. An Officer explained

that the consultation would highlight concerns raised and that adjustments could be made where necessary.

A Member had noted that this demanded extra work, it was a stepping stone and set the Council's intentions as well as environmental expectations. In addition, they noted that other Councils already had environmental policy standards, whereas this Council had not.

A Member had raised concern that this process was not statutory and that some developers had not been as engaged with environmental frameworks because it was not policy and was concerned it would be ignored.

The Chief Executive explained that had not been a choice for the process to be statutory or non-statutory and that the current local plan had not contained the necessary content to make this process supplementary to the local plan which was why this process had been introduced.

RESOLVED: That

- The draft Non-Statutory Interim Planning Policy Statement: Climate Emergency (Appendix 1), including the Net Zero Carbon Toolkit (Appendix 2) and the Net Zero Housing Assessment Tool (Appendix 3) be approved for public consultation.
- Delegated authority be given to the Director of Place in consultation with the Cabinet Member for Planning and Economic Regeneration to finalise the material and arrangements for consultation.

(Proposed by Cllr C Slade and seconded by Cllr A Moore)

Reason for Decision: The Non-Statutory Interim Planning Policy Statement plan will help meet the Corporate Plan priorities: 'Homes', 'Environment', 'Community' and 'Economy'. The Non-Statutory Interim Planning Policy Statement will supplement relevant policies in the adopted Local Plan where these are relevant to adapting to, and mitigating the impacts of, climate change through development in Mid Devon, and it will draw from current good practice and relevant legislation and statutory provisions since the Local Plan was submitted to the Secretary of State in March 2017 and subject to its independent examination.

75. NOTIFICATION OF KEY DECISIONS

RESOLVED: That the notification of Key Decisions be noted.

(The meeting ended at 11.12 am)

CHAIRMAN